

South Norfolk Gypsy and Traveller DPD Examination

Inspector's Preliminary Questions and Comments

1 Background

1.1 I have begun the Examination by reading the most important submitted documents. As a result, I have a number of preliminary questions which I want to clarify before proceeding further. I also highlight a number of initial concerns so that the Council is aware of my thinking.

1.2 If, as a result of the Council's responses, I have serious concerns about the likely soundness of the document, I would call an Exploratory Meeting. This would explore whether there is further work the Council could undertake to remedy any significant problems or whether the DPD should be withdrawn without the Examination proceeding, so as to avoid wasted work and expense by all parties. (The purpose of an Exploratory Meeting and possible outcomes are explained in section 9 of the Planning Inspectorate's publication *Examining Development Plan Documents: Procedure Guidance* November 2008, see: http://www.planning-inspectorate.gov.uk/pins/appeals/local_dev/dpd_procedure_guide_aug09.pdf

1.3 If I decide to proceed with the Examination, the Council's responses will help me to refine the main issues for the Examination and the questions on which I invite further comment for discussion at the hearings.

1.4 My main concerns at this stage are: the wording and application of the site selection criteria; living conditions for future residents of the sites; the deliverability of the proposed sites; and flexibility to respond to changing circumstances. I set out questions on these matters in sections 4, 5 and 6. The proposed sites are intended to meet a need which already exists and which should be met in the period 2006-2011. If there are not reasonable prospects of the sites being delivered in the short term there would be a serious question mark over the soundness of the DPD.

1.5 This note covers a wide range of matters. I have highlighted those on which an early reply would assist. Other matters could be addressed as part of the overall Examination, if it were to proceed in the conventional manner. It would be helpful if the Council could provide an initial response via the Programme Officer by the end of **Tuesday 9 March**. This note should be placed on the DPD Examination page of the Council's website and the Council's response added in due course.

1.6 The answers to some of my questions may well be in the submitted material, but I have missed or misunderstood it. If so, the Council should highlight where the answer is set out.

2. Legal and Regulatory Requirements

2.1 I have not seen any explicit consideration of the DPD in relation to the Habitat Regulations and protected European sites. As a first step, there should have been a screening to test whether the DPD is likely to have a significant effect on a European site. Natural England should have been consulted on the conclusion of any screening. For advice see *Planning for the Protection of European Sites: Appropriate Assessment* CLG August 2006. Please let me know whether this has been done or needs to be done and, if the latter, it should be undertaken.

2.2 The DPD should include a list of any saved local plan policies which would be superseded by the adoption of the DPD. There is no mention of this in the DPD. The previous proposed submission DPD (September 2008 p20) indicated that policy HOU 23 (formerly policy HOU24) of the South Norfolk Local Plan 2003 would be superseded on the adoption of that DPD. Is this the intention with the current DPD? If so, the DPD should contain a clear statement to that effect, perhaps in the introduction to the development control policy (which would be better termed *development management*). This could be the start of a running list of Proposed Changes (the publication of which can be discussed at later stage).

2.3 The Council should have submitted a DPD which it considers sound i.e. that could be adopted without any changes. However, the DPD is written in the style of a consultation draft. There are a number of sections which would no longer be relevant if the DPD were to be adopted and would be confusing if they were to remain (eg Title Page, 1st paragraph, *How to comment/What happens next* on p 13). A sound DPD would not need to include Appendices 3 and 4.

2.4 More importantly, the wording of some parts of the DPD is expressed tentatively eg *we are therefore suggesting* on pp7/8. In my view, the wording should be unambiguous and definitive. Furthermore, the 2 allocations at the heart of this DPD are not expressed/highlighted in the conventional manner, so it is difficult to know the full scope of the proposal. There should be an allocation policy or proposal for each site summarising what is proposed and what needs to be done to make it acceptable, set out in way which is distinguishable from the rest of the text and with an identifying reference. Although the text of the development control policy is contained within a box, the policy wording is not otherwise readily distinguishable from the rest of the text and has no name or reference (the heading of section 9 refers to *policies*, but there is only 1). The Council should give thought to how these shortcomings could be addressed, but an immediate response is not needed.

2.5 I am unclear as to why the allocations (as defined on the proposed changes to the Proposals Map) are so large. In both cases, but particularly in relation to the Stanfield site, there is land that is not required to accommodate the proposed number of pitches or for landscaping (on the basis of the indicative layouts in Appendix 6 of the DPD). What is the reason for the size and shape of the allocations being

made? Is there any positive use intended for the additional land, linked to the residential use. If so, this should be in the formal policy/proposal.

2.6 The Minutes of the Council meeting on 25 January 2010, which resolved to submit this DPD, also resolved to support at the Examination amending the 2nd criterion of the development control policy. I have seen no submission to this effect, such as a proposed change to the DPD. However, I would need to find the existing policy wording unsound before considering a change. The wording of the criterion now, apparently, desired by the Council is the same as that used in the site selection criteria in the DPD. I express below concern with the reasonableness of this criterion and so it is very unlikely that I would consider it sound to make a change to the more restrictive wording. How does the Council intend to proceed with this matter?

3. The scale and nature of accommodation needs to be met

3.1 The DPD adopts the definition of gypsies and travellers from Circular 1/2006. Why has this definition been preferred to the wider definition in the Housing Act and related Regulations? Some gypsies and travellers who do not have a nomadic habit of life may still have a strong cultural tradition of living in caravans and/or an aversion to bricks and mortar and be in need of a pitch.

3.2 I set out in the **Annex** to this note some detailed questions relating to the Accommodation Needs Survey 2006 and the requirements of policy H3 of the RSS. It would be particularly helpful if the Council could confirm in the initial response the number and nature of authorised pitches in the district as of January 2006 (see detailed points in Annex).

3.3 The DPD indicates that both sites will be managed by a Registered Social Landlord (RSL) as is the new site at Hartford Bridge.

- a) On what evidence is the Council satisfied that provision of sites for social rent will meet the needs of all groups of gypsies and travellers in need of accommodation in South Norfolk?
- b) Why has provision by the private sector on allocated sites been excluded in the submitted DPD, when the previous proposed submission document (September 2008, SD18) aimed to provide a variety of tenures (P18)?

3.4 To what extent did the Needs Survey, or subsequently the Council, assess whether 3 sites (including that now developed at Hartford Bridge) of 6-8 pitches would provide a suitable mix to accommodate the different ethnic and/or cultural groups within the local gypsy and traveller community?

3.5 Has this published version of the DPD been the subject of any specific consultation with, or feedback from, the Norfolk Gypsy and Traveller Liaison Group (as listed in the *Strategy for Gypsies and Travellers in Norfolk 2005-2008*) or with any other local representatives of the gypsy and traveller community?

4 Site selection

4.1 I note that the site selection criteria (Appendix 2 of the DPD) have been amended at each stage when a document was published, but I am unclear as to how the criteria have been interpreted/applied and whether the factors used in their interpretation have changed over time.

4.2 "Environmentally-sensitive areas" are defined in the Glossary of the DPD. How have the other criteria be interpreted to give scores of 1-4 for each site? If there was written guidance on each criterion prior to the exercise being done, please provide. If not, please explain how they were, in practice, interpreted and applied (in general terms only, not in relation to every site).

4.3 I am unclear as to why the application of the first 2 essential factors did not result in a more clear cut pattern of scores (eg 1 or 4) given that whether a site is within or outside an environmentally sensitive area or flood zones 2 and 3 is a matter of fact, not judgment. Please explain.

4.4 Appendix 3 of the DPD is the initial assessment of all sites against the essential factors. Is this a fresh application of the scores for the purposes of the published DPD based on the criteria listed in Appendix 2?

4.5 Apart from the categories of "Council owned land" and "2007/8 landowner offers", I am unclear why the other sites were identified as potential sites in the first place. In particular, why were the 2 sites now allocated, initially put forward for consideration, bearing in mind that there is no support from the existing landowners? What distinguishes these particular "sites" as having potential compared with other fields, or parts of fields, in the same location or more generally in the area?

4.6 I have some preliminary views on the selection criteria which I summarise below. I do not yet know to what extent these concerns might undermine the soundness of the final choice of sites.

- a) "Avoid sites where the wellbeing of site occupiers would be adversely affected" should be an essential, not just a desirable factor. Everyone is entitled to a satisfactory living environment and the plan-led system for the provision of sites for gypsies and travellers should consider as acceptable only sites where the living environment would be acceptable for permanent dwellings (whilst bearing in mind the different characteristics of caravans, such as in relation to noise insulation).
- b) "Avoiding sites where there is more than minimal effect on visual and residential amenities" is a much more stringent test than would normally be applied to any other type of development and is likely to be unreasonable. Until I better understand how this has actually been interpreted and applied, I do not know the consequences for the site selection process and the soundness of the DPD.
- c) Since actual delivery of pitches is important, I would have thought that "deliverability" was an essential positive consideration so as to have a shortlist of sites which had some prospect of being realised.

(Although I recognise that at a later stage this test could be applied to a short list.)

4.7 The site at *Lower Spinks Lane, Wymondham* (p20 DPD) scores maximum points on all essential factors, but is the only site with such scores which was not subsequently assessed on desirable factors. Why was this? Please provide a plan of that location/site.

5 Site specific considerations

5.1 I have not seen the sites before preparing this note. I hope to view the 2 allocated sites from public roads in the near future.

Land west of the Stanfield Oil Depot, Wymondham

5.2 I have requested above an explanation for the size and shape of the allocation that is proposed. I find it odd that the allocation cuts across what appears to be the established landscape feature of the former railway line, but will better understand the situation when I see the site.

5.3 On the plan in Appendix 6 of the DPD, the allocated land site lies just beyond some lines which appear to relate to the Health and Safety Zone around the oil depot. The Local Plan's Proposals Map defines *Hazard Installation Consultation Zones* which straddle the identified site. Why is there a difference in the delineation of these zones?

5.4 Have the Health and Safety Executive (HSE) indicated that the defined hazard consultation zones around the depot need to be (or might need to be) reviewed as a result of revised practice following the explosion at the Buncefield oil depot? If so, has this been done and is it reflected in the DPD? The Council indicate (in the commentary on representations) that the HSE has no objection to the proposal. When was the HSE most recently consulted? Please provide a copy of its responses.

5.5 Goff Petroleum indicate that they wish to expand the operation at the adjoining oil depot and that some years ago such expansion was considered acceptable by the Council. I appreciate that there is no current planning permission to do so. Have the Council given consideration to the potential limiting effect that a residential use would have on expansion of this facility, if such an expansion was otherwise acceptable? Have the Council had any discussions with Goff Petroleum on this issue? My preliminary view is that I would need to explore further in the Examination the potential beneficial opportunity that might be lost by permitting a residential use so close to this facility.

5.6 I have already indicated that I regard satisfactory living conditions for the intended occupants of the sites to be an essential requirement. Goff Petroleum indicate that the depot operates 24 hours a day. Has any assessment been made (such as by the Council's Environmental Health Officer - EHO) of the potential noise nuisance at night of HGVs manoeuvring on the depot site or pulling away from the entrance (which

is the nearest part of the depot to the proposed allocation). Please provide details of whatever assessment has been made, but I am not seeking at this stage additional work to be undertaken (nor in relation to the similar question concerning the other allocation).

5.7 The suggested layout of the site in Appendix 6 cuts across the track of former railway line which is protected in the Local Plan by saved policy TRA6. I have not seen any explicit consideration by the Council as to whether there is any conflict with this policy. If previously assessed, please provide a copy, or explain why the impact is considered acceptable.

Old Harleston Road, Earsham

5.8 From the representations, I am aware that this site adjoins various businesses to the south west and a pig farm to the north east. What assessment (such as by the EHO) has the Council made of the potential for noise disturbance and/or odour nuisance from adjoining activities on the new residential use? Also, what assessment has been made of the potential consequences for the adjoining businesses if their operations caused a nuisance for the new residents (given that there are no nearby residents at present)?

6 Deliverability and flexibility

Delivery

6.1 I consider that a key question for the Examination and fundamental to the soundness of the DPD is whether the proposed allocations are realistically deliverable to meet the identified immediate need and whether there is flexibility within this DPD, or in the context of the overall LDF, to respond to changing circumstances.

6.2 For each of the proposed, allocations please explain the Council's understanding of the following:

- a) Who owns the land and is adjoining land in the same ownership?
- b) What is the known attitude of the landowner to the proposed development? (I have seen the representations from Mr Meade of Earsham Estates and from Goff Petroleum, but was unclear whether the latter owned the allocated site).
- c) What formal approaches have the Council, or an RSL, made to acquire the sites and what has been the response?

6.3 How is the Council intending to secure the delivery of the sites:

- a) What are the respective roles of the Council and an RSL in delivering the allocation in terms of action and funding?
- b) Has an RSL expressed serious interest and ability to assist?
- c) Is there a timetable for action, including the implications of pursuing compulsory purchase if necessary? If not please work-up a draft timetable.
- d) Have any estimates been made of the likely cost of acquisition and development? (If so, please provide.)
- e) What funds are available to realise the development? Are these secure? Do these have to be spent within a specified period?

6.4 Has the Council given any formal consideration to the implications of pursuing compulsory acquisition of either site?

Flexibility

6.5 The previous Proposed Submission DPD (Supporting Document 18) indicated (p12) that the DPD was intended to be flexible, with alternative strategies to meet contingencies that might arise and included the allocation of reserve sites. There is no such acknowledgment or provision in the current DPD. Why? Do the Council envisage any scope for flexibility within the submitted DPD?

6.6 If there is no scope for flexibility within the submitted DPD, would there be scope for flexibility in the wider LDF? If the DPD were to be adopted, but subsequently there were difficulties with implementation, would it be possible to include the allocation of sites for gypsies and travellers for the period 2006-2011 (as well as for needs post 2011) in the forthcoming Site Allocations DPD? On the current timetable in the Local Development Scheme when would a decision have to be made to include sites for 2006-2011 in that DPD to ensure adequate consultation and consistency with other allocations?

7 Development Management Policy

7.1 If the Examination were to proceed I would need to explore the soundness of the criteria in the proposed *development control* policy. My only question at present is the reason for including such a policy in this DPD rather than the Joint Core Strategy (JCS), given that Circulars 1/2006 and 4/2007 expect Core Strategies to set out a criteria based policy against which all types of application for sites for gypsies, travellers and Travelling Showmen should be assessed.

7.2 I understand that the emerging JCS does make reference to provision for gypsies, travellers and Travelling Showmen, but does not contain a specific criteria policy. In what DPD are the other Council's involved with the JCS intending to set out a criteria based policy for the accommodation of these groups? How would the development management policy in the present DPD necessarily be compatible with the strategy in the JCS? This is timetabled for adoption later than this DPD and I will not know the final form in which it will be adopted.

7.3 Have all the Council's involved with the JCS resolved that it should be submitted to the Secretary of State?

Simon Emerson

Inspector

24 February 2010

Annex to Note

Accommodation Needs Survey July 2006 (Supporting Document 12)

A.1 Paragraph 15.3 states that evidence shows a need for between 32 and 44 pitches to address current accommodation needs.

- a) Is this meant to refer to permanent sites only or a mix of permanent and transit sites?
- b) In either case, what figures in the survey lead to this conclusion?
- c) If 15.3 refers only to permanent sites, how does the recommendation in paragraph 16.1 of 3 new sites of 6-8 pitches each (giving a minimum of 18 pitches and a maximum provision of 24 pitches) meet the identified need?

A.2 Paragraph 10.4 refers to over 20 locations across South Norfolk regularly used by gypsies and travellers and goes on to suggest that these form specified geographical corridors. (Further elaborated in paragraph 10.5.) The accompanying map shows about 31 parishes within which there have been encampments.

- a) On what basis have the 31 parishes been identified and how do 31 relate to the reference to 20 in paragraph 10.4?
- b) Did some parishes have more than 1 of the 20 regularly used sites?
- c) 22 respondents to the survey were living on unauthorised sites (paragraph 10.2); how many of these are the same as the 20 referred to in 10.4 and have all the parishes where these 22 sites are been highlighted on the map?
- d) Of the survey responses (p11), about 2/3rds indicate a preference for *living where I am now*. Is this information consistent with or supportive of the identification of road corridors for the locations of the future sites?

A.3 P15 of the Needs Survey contains a table summarising what is described as *unauthorised encampments* (paragraph 14.2) from the bi-annual count of gypsy caravans between July 2003 and 2006. Appendix 7 of the Issues and Options Report (Supporting Document 19) has a similar table, but with separate figures for *unauthorised development* and *unauthorised encampments*. Adding these 2 figures for July 2004 and Jan 2005 gives the same total for those dates as in the Needs Survey.

- a) Should the Needs Survey have referred to both types of unauthorised development?
- b) Why are there discrepancies between the total unauthorised sites in the Issues and Options Report and in the Needs Survey for the dates other than the 2 referred to above?.

A.4 What was the reason for the Needs Survey recommending sites for 6-8 pitches?

Policy H3 RSS (Supporting Document 16)

A.5 Policy H3 of the RSS July 2009 indicates that South Norfolk had 25 authorised pitches in Jan 2006. These, together with the proposed

minimum addition of 28 pitches, give a minimum total of 53 pitches by 2011.

- a) Please identify what were/are the 25 authorised pitches at the beginning of 2006 (with location - please provide a plan; number of authorised pitches or caravans; and whether any planning permissions are permanent, temporary and or personal to named occupier.
- b) Are the authorised sites at Jan 2006 still authorised and occupied or available for occupation by any gypsy family fulfilling the definition in Circular 1/2006? If there were not 25 authorised pitches at Jan 2006, my preliminary view is that any shortfall below 25 should be added to the minimum provision to be made by 2011.
- c) The submitted DPD (p3, 4th para) refers to a base date of 1 April 2006, but the RSS has a base date of Jan 2006. My preliminary view is that the DPD should have the same base date. Were any sites granted permission between January and April 2006 and if so are they already mentioned among the sites in the 5th para?
- d) The submitted DPD (p3 1st para) refers to the County Council's site at Roundwell with 19 pitches. The Needs Survey refers to 18 pitches at Roundwell (para 10.2). The Roundwell site was refurbished in 2006 (Issues and Options, SD19, Appendix 7 pIX). Did the number of pitches increase by 1 as a result of refurbishment? What number of pitches for Roundwell was incorporated in the RSS base information?

Simon Emerson
Inspector
24 February 2010